

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ROBERT HARRY WHITTAMORE,

Defendant-Appellant.

UNPUBLISHED

December 19, 1997

No. 200225

Berrien Circuit Court

LC No. 96-000801-FH

Before: Corrigan, C.J., and Doctoroff and Fitzgerald, JJ.

PER CURIAM.

Following a bench trial, defendant was convicted of one count of second-degree criminal sexual conduct (CSC), MCL 750.520c(1)(a); MSA 28.788(3)(1)(a), involving a four-year-old girl. He was sentenced to five to fifteen years' imprisonment. Defendant appeals as of right. We affirm.

Defendant's sole claim of error is that the evidence was insufficient to sustain his conviction. We disagree.

A conviction for second-degree CSC requires proof that the defendant engaged in "sexual contact" with another person and that such person was under the age of thirteen. MCL 750.520c(1)(a); MSA 28.788(3)(1)(a). "Sexual contact" is defined to include "intentional touching of the clothing covering the immediate area of the victim's or actor's intimate parts, if that intentional touching can reasonably be construed as being for the purpose of sexual arousal or gratification." MCL 750.520a(k); MSA 28.788(1)(k). A defendant's specific intent is not an essential element of the crime. *People v Fisher*, 77 Mich App 6, 13; 257 NW2d 250 (1977).

The evidence reveals that the victim, who was seven years old at the time of trial, testified that on one occasion in the bedroom in the presence of another child defendant touched her "private" with his finger.¹ The victim's testimony was supported by that of her cousin, who testified that defendant was on the mattress with the victim and that it appeared to him that they were doing "nasty stuff," meaning that they were "doing sex." Viewing the evidence in a light

most favorable to the prosecution, *People v Hurst*, 205 Mich App 634, 640; 517 NW2d 858 (1994), and leaving questions of credibility to the finder of fact, *People v Daniels*, 172 Mich App 374, 378; 431 NW2d 846 (1989), this evidence is sufficient to support a finding that defendant engaged in sexual contact with the four-year-old victim.

Affirmed.

/s/ Maura D. Corrigan

/s/ Martin M. Doctoroff

/s/ E. Thomas Fitzgerald

¹ When referring to her “private,” the victim pointed to her vaginal area.